



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Julian Montgomery  
State Highway Engineer  
Austin, Texas

Attention: Mr. E. M. Belcher

Dear Sir:

Opinion No. 0-1754

Re: Will the status of workmen's  
compensation insurance paid  
to a widow be changed if she  
marries again?

Your letter of December 13, requesting an opinion from this department, wherein is submitted the question of whether or not the status of workmen's compensation insurance for State Highway Department employees, being paid to a widow of a deceased employee, would be changed in any way were she to marry again, has received our attention.

Section 8a of Article 8306, Vernon's Annotated Revised Civil Statutes, provides:

"The compensation provided for in the foregoing section of this law shall be for the sole and exclusive benefit of the surviving husband who has not for good cause and for a period of three years prior thereto, abandoned his wife at the time of the injury, and of the wife who has not at the time of the injury without good cause and for a period of three years prior thereto, abandoned her husband, and of the minor children, parents and stepmother, without regard to the question of dependency, dependent grandparents, dependent children and dependent brothers and sisters of the deceased employee; and the amount recovered thereunder shall not be liable for the debts of the deceased nor the debts of the beneficiary or beneficiaries and shall be distributed among the beneficiaries as may be entitled to the same as hereinbefore provided according to the laws of descent and distribution of this State; provided the right in

Hon. Julian Montgomery, page 2

such beneficiary or beneficiaries to recover compensation for death be determined by the facts that exist at the date of the death of the deceased and that said right be a complete, absolute and vested one. Such compensation shall not pass to the estate of the deceased to be administered upon, but shall be paid directly to said beneficiaries when the same are capable of taking, under the laws of this State, or to their guardian or next friend, in case of lunacy, infancy or other disqualifying cause of any beneficiary. The compensation provided for in this law shall be paid weekly to the beneficiaries herein specified, subject to the provisions of this law."

We find the foregoing statute adopted in Section 7 of H. B. 420, 45th Legislature, applicable to the State Highway Department and its provisions become a part of the law incorporated under Article 6674s, Vernon's Revised Civil Statutes of Texas.

The article provides that compensation, as provided under this law is for the "sole and exclusive benefit" of the legal wife who has not at the time of the injury without good cause and for a period of three years prior thereto abandoned her husband and it will further be noted that this right to recover compensation for her husband's death is to be determined by the facts that exist at the date of the death of the deceased and that said right shall be a complete, absolute and vested one.

Generally, in those jurisdictions where remarriage affects the compensation payments, the beneficiaries' rights are based largely upon the question of "dependency" which is not analogous with the provisions of the Texas statutes. Our statutes do not contain any expressed prohibition against remarriage nor authorization for the Industrial Accident Board to change or modify any award of compensation upon the ground of remarriage.

In the case of Moore vs. Lumberman's Reciprocal Association, 258 S. W. 1051, the Commission of Appeals, Sec. B, in rendering the opinion, construed the statute quoted, holding that the beneficiary's right to compensation for death of an employee, which is payable inde-

Hon. Julian Montgomery, page 3

pendently of the question of dependency, is a vested right which the statute vests in the beneficiaries named, and is a right transmissible to the heirs of the beneficiary, which right may be administered upon as part of the beneficiaries' estate by reason of the provision authorizing redemption of liability in lump sum settlement and the expressed language used in Section 8a, supra. We quote from the opinion as follows:

"Since her right to the award and to the money awarded is in no way connected with or dependent on her dependency or poverty, and would have been hers notwithstanding she might have been living in luxury and been possessed of great wealth, what reason can be assigned for paying it to her as long as she lived, and then denying that the right to it ever vested in her? . . . The statute created a debt on the death of Pete Sanders owing by the association to Minnie Sanders. Being such, it became a vested right transmissible to the heirs of Minnie Sanders."

It is, therefore, the opinion of this department that the status of compensation being paid to a widow of a deceased employee under the provisions of Article 6674s, Vernon's Annotated Revised Civil Statutes, is not changed or affected by her remarriage.

Trusting the above answers your request, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Wm. J. R. King*  
Wm. J. R. King  
Assistant

WmK: jm

APPROVED DEC 21, 1939

*George B. Mann*  
ATTORNEY GENERAL OF TEXAS

APPROVED  
OPINION  
COMMITTEE  
*Burr*